

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-18 and 27-31, drawn to a substrate; and

Group II: Claims 20-26 and 32-60, drawn to a process for formation of a substrate.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. M.P.E.P. § 803.

Applicants respectfully traverse the Requirement for Restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

Citing PCT Rule 13.1 and 13.2, the Examiner contends that Groups I and II do not relate to a single general inventive concept because they lack the same or corresponding special technical features. However, Applicants traverse the Requirement for Restriction on the grounds that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority. The Authority did not take the position that unity of invention was lacking in the international application, and examined all of the claims together (see the International Preliminary Examination Report appended herewith). Applicants note that PCT Article 27(1) states that no national law shall require compliance with requirements relating to the form and contents of the international application which are different from or additional to those which are provided for in the Patent Cooperation Treaty and the Regulations.

Moreover, M.P.E.P. § 803 states:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all of the claims would not impose a serious burden on the Office.

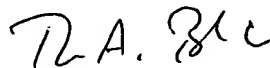
Finally, Applicants note that MPEP §821.04 states, "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined." Applicants respectfully submit that should the elected group be found allowable, the non-elected claims should be rejoined.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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